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8	BEFORE 7	rur
9	PHYSICAL THERAPY BOARD OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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12	In the Matter of the Accusation and Petition to Revoke Probation Against:	Case No.
13	BEVERLY ALLISON	ACCUSATION
14	208 Armontier Road Forestville, CA 95436	AND PETITION TO REVOKE PROBATION
15	Physical Therapist Assistant License No. AT3089	
16	Respondent.	
17		
18	Complainant alleges:	
19	<u>PARTIES</u>	
20	1. Steven K. Hartzell (Complainant) brings this Accusation solely in his	
21	official capacity as the Executive Officer of the Physical Therapy Board of California,	
22	Department of Consumer Affairs.	
23	2. On or about May 21, 1993, the Physical Therapy Board of California	
24	issued Physical Therapist Assistant License Number AT3089 to Beverly Allison (Respondent).	
25	The Physical Therapist Assistant License was in full force and effect at all times relevant to the	
26	charges brought herein and will expire on December 31, 2004, unless renewed.	
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DISCIPLINARY HISTORY

3. On or about February 24, 1999, Accusation no. 1D 98 62096 was filed
against respondent. On or about April 26, 1999, respondent signed a Stipulation in settlement of
the Accusation. On or about May 26, 1999, the Board adopted the Stipulation with an effective
date of June 28, 1999. The Stipulation provided that respondent's license was revoked,
revocation stayed and respondent's license was placed on probation for seven years subject to
terms and conditions. A true and correct copy of the Board's decision in Case No. 1D9862096
is attached as Exhibit A and incorporated by reference.

JURISDICTION

- 4. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
 - 5. Section 2609 of the Code states:

The board shall issue, suspend, and revoke licenses and approvals to practice physical therapy as provided in this chapter.

6. Section 2660 of the Code states:

The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon, or issue subject to terms and conditions any license, certificate, or approval issued under this chapter for any of the following causes:

- (d) Conviction of a crime which substantially relates to the qualifications, functions, or duties of a physical therapist. The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.
- (i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the State Medical Practice Act.

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7. Section 2661 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgement of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

8. California Code of Regulations, title 16, section 1399.20, states:

"For the purposes of denial, suspension or revocation of a license or approval, pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license or approval under the Physical Therapy Practice Act if to a substantial degree it evidences present or potential unfitness of a person to perform the functions authorized by the license or approval in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following:

- "(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of the Physical Therapy Practice Act.
- "(c) Violating or attempting to violate any provision or term of the Medical Practice Act.

COST RECOVERY

- 9. Section 2661.5 of the Code states:
- (a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any

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licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of the assessed costs specified in the proposed decision.

FIRST CAUSE FOR DISCIPLINE AND REVOCATION OF PROBATION

(Conviction)

- 10. Respondent is subject to disciplinary action under section 2660(d) [conviction of a crime] and is in violation of Probation Conditions E [abstain from alcohol] and I [obey all laws] of her probationary order in that she was convicted of a violation of Vehicle Code section 23152(b), driving with blood alcohol above .08%. The circumstances are as follows:
- On or about June 5, 2003, in the Superior Court of Sonoma County, State of California, misdemeanor criminal complaint no. TCR-421415 titled *People of the State of California vs. Beverly Ann Allison* was filed. Count I of the complaint alleged that respondent violated Vehicle Code section 23152(a), driving under the influence of alcohol. It was further alleged that respondent had a blood alcohol content of .20% and higher within the meaning of Vehicle Code section 23578. Count II alleged that respondent violated Vehicle Code section 23152(b), driving while having a blood alcohol above .08%. It was further alleged that respondent had a blood alcohol content of .20% and higher within the meaning of Vehicle Code section 23578. The complaint then alleged respondent's prior conviction for violating Vehicle Code section 23152(a) on June 25, 1998 in Superior Court, Santa Rosa County, docket no. 313957.
- 12. On or about September 3, 2003, respondent filed an absentia plea of no contest to Vehicle Code section 23152(b) and admitted the one prior conviction. Judge Dennis

Beaman dismissed count I, struck the enhancement and accepted her plea. Judge Beaman granted a conditional sentence of sixty months and ordered respondent to attend a Multiple Offenders Drunk Drivers Program (MODDP), enroll with within twenty one days and complete as directed, and submit to random chemical tests. For eighteen months, Respondent's license is restricted to driving to and from employment, during course of employment, to seminars, and an interlock device was ordered to be installed on her car. She was ordered to pay fines of \$1,816.00 in monthly payments beginning November 15, 2003. She was sentenced to serve 30 days in jail, stayed to October 31, 2003, and referred to work furlough and supervised electronic confinement.

13. Therefore, respondent's license is subject to discipline under section 2660(d) [conviction] and her probation is subject to revocation due to her conviction of a violation of Vehicle Code section 23152(b) [driving with a blood alcohol level above .08%].

SECOND CAUSE FOR REVOCATION OF PROBATION

- 14. Probation Condition G of the Order in Case no. 1D 98 62096 states:

 "...respondent shall enroll and participate in the Board's diversion program until the Board determines that participation in the diversion program is no longer necessary. ... Failure to comply with requirements of the Diversion Program, terminating the program without permission or being expelled for cause shall constitute a violation of probation."
- 15. On or about June 9, 2003, respondent wrote to the Physical Therapy Board stating that she no longer would participate in the diversion program. Respondent has not attended diversion since June, 2003. She did not receive permission from the diversion program to terminate. On or about September 23, 2003, Maximum Diversion Program wrote a letter to respondent, informing her that she was terminated due to non-compliance.
- 16. Respondent's act of terminating participation in the diversion program without permission is a violation of probation condition G, and cause to revoke her probation.

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1	<u>PRAYER</u>	
2	WHEREFORE, Complainant requests that a hearing be held on the matters herei	
3	alleged, and that following the hearing, the Physical Therapy Board of California issue a	
4	decision:	
5	1. Revoking or suspending Physical Therapist Assistant License Number	
6	AT3089, issued to Beverly Allison;	
7	2. Revoking the probation of Beverly Allison and carrying out the order that	
8	was stayed;	
9	3. Ordering Beverly Allison to pay the Physical Therapy Board of California	
10	the reasonable costs of the investigation and enforcement of this case, pursuant to Business and	
11	Professions Code section 2661.5;	
12	3. Taking such other and further action as deemed necessary and proper.	
13	DATED: October 31, 2003 .	
14		
15	Oniginal Cianad Day	
16		
17	Executive Officer Physical Therapy Board of California	
18	Department of Consumer Affairs State of California	
Complainant 19	Complaniant	
20	03575 160- SF 2003AD 0579	
21	CES 10/03 date prepared	
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